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DOCKET NO.: TJU-2412

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Scott A. Waldman, et al.

Serial No.: **09/819,249**

Group Art Unit: **1637**

Filed: **March 27, 2001**

Examiner: **Alexander H. Spiegler**

**For: COMPOSITIONS AND METHODS FOR IDENTIFYING AND
TARGETING CANCER CELLS OF ALIMENTARY CANAL ORIGIN**

EXPRESS MAIL LABEL NO.: EL 926696185 US
DATE OF DEPOSIT: **February 25, 2003**

Assistant Commissioner for Patents
Washington, D.C. 20231

**REPLY UNDER 37 C.F.R. § 1.143 TO
OFFICE ACTION DATED SEPTEMBER 26, 2002**

Reconsideration of the requirement for restriction is respectfully requested in view of the following remarks.

Restriction Requirement

A restriction has been required under 35 U.S.C. § 121 to one of eight groups of inventions, characterized as Groups I to VIII. The claims and the subject matter said to be associated with each group are set forth below.

Group I, encompassing claims 1-28 (in part), drawn to methods of screening or

Group II, encompassing claims 1-24 (in part) and 29-32, drawn to methods of screening or diagnosing an individual suspected of having primary and/or metastatic esophageal cancer;

Group III, encompassing claim 33, drawn to a kit comprising primers;

Group IV, encompassing claim 33, drawn to a kit comprising antibodies;

Group V, encompassing claims 34 to 36 (in part), drawn to methods of treating primary and/or metastatic stomach cancer with an ST receptor ligand and an active agent;

Group VI, encompassing claims 34 to 36 (in part), drawn to methods of treating primary and/or metastatic esophageal cancer with an ST receptor ligand and an active agent;

Group VII, encompassing claims 37-38 (in part), drawn to methods of radioimaging primary and/or metastatic stomach cancer; and

Group VIII, encompassing claims 37-38 (in part), drawn to methods of radioimaging primary and/or metastatic esophageal cancer.

The Office Action asserts that the inventions of Groups I to VIII are patentably distinct. Applicants respectfully traverse the restriction requirement as it applies to Groups I and II.

Applicants respectfully request the Examiner to consider reconfiguring the restriction requirement so that the subject matter of Groups I and II is contained within a single group. Applicants respectfully submit that the relationship among the subject matter defined by the present claims is such that a reasonable search of the methods defined by the claims of Group I would necessarily lead to disclosures, to the extent any exist, of the methods defined by the claims of Group II. Accordingly, Applicants respectfully submit that a search and

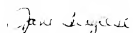
impose a serious burden on the Examiner

In accordance with 37 CFR 1.143, applicants hereby provisionally elect for prosecution the subject matter of Group II, encompassing claims 1-24 (in part) and 29-32, and drawn to methods of screening or diagnosing an individual suspected of having primary and/or metastatic esophageal cancer.

Conclusion

Applicants believe that the foregoing constitutes a complete and full response to the Office Action of record. Accordingly, an early and favorable Action is respectfully requested.

Respectfully submitted,



Date: **February 25, 2003**

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